

RECEIVED
CENTRAL FAX CENTER

SEP 19 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Stevens)	
)	
APPLICATION NO:	08/940,815)	Examiner: M.C. Mayes
)	
FILED:	September 30, 1997)	Art Unit: 1734
)	
FOR:	Correction Tape Dispenser)	

DECLARATION OF JOHN C. SINGLEHURST UNDER 37 C.F.R. § 1.132

I, John C. Singlehurst, hereby state as follows:

1. I am a Barrister and Solicitor (lawyer) registered to practice in the Province of Ontario and before the Federal Court of Canada. My registration number is 11705U. I am also a registered patent agent in Canada. My patent registration number is 03135. I have been practicing as a lawyer for 36 years and as a registered patent agent for 34 years.
2. I have reviewed Canadian Patent No. 2,091,996 ("Canada '996"), which indicates on its face that it was laid open on February 1, 1993 (see Exhibit A1 and Exhibit A2 which is a printout downloaded by me on May 24, 2005 from the Canadian Intellectual Property Office data base on Canada '996). Canada '996 claims to be the Canada national phase of International (PCT) Application No. JP1992/000947 ("PCT '947"), which claims priority to Japanese Application No. JP19910068371U ("Japan '371"). PCT '947 was published as WO/9302870 ("WO '870") on February 18, 1993.

-2-

3. The purpose of this Declaration is to provide competent evidence that the laid open or publication date noted on Canada '996 under item "(87)" in Exhibit A1 and A2 is and was incorrect, and that the subject matter of Canada '996 was not laid open or available to the public until February 18, 1993.
4. Japan '371 was filed on July 31, 1991, and PCT '947 was filed on July 24, 1992. The policy of WIPO is to publish applications 18 months after the earliest priority date, or soon thereafter, but not before 18 months in the absence of a request to do so from the applicant. Thus, PCT '947 was published as WO '870 on Thursday, February 18, 1993, or 18 months plus approximately 2 1/2 weeks.
5. Entry of Canada '996 into Canada was on March 18, 1993 as the national phase of PCT '947 and issued on October 5, 1999.
6. The original patent laid open date or "publication" of Canada '996 bears the following on its cover page: "(87) 1993/02/01". Thus, the Canada '996 patent indicates on its face a laid open or publication date of February 1, 1993.
7. The practice of the Canadian Intellectual Property Office ("CIPO"), while Canada '996 was pending, was to indicate every application including every international application as being laid open 18 months plus 1 day after the priority date. Thus, under this practice, Canadian patents

-3-

filed during this time period and claiming priority to an international application bear a laid open date of 18 months plus 1 day after the priority date. This practice was regardless of the actual publication date of a PCT application. Further, the CIPO did not publish applications in any way on the indicated date but the date only reflected that the application was purportedly laid open for public inspection.

8. Because the priority date for Canada '996 is July 31, 1991 (the application date of Japan '371), the CIPO placed a laid open date on Canada '996 18 months plus one day thereafter -- Monday, February 1, 1993. However, there was no actual laying open of the application in Canada on this date (as entry into national phase did not take place until March 18, 1993).

9. Several years later, CIPO revised this procedure. Article 2.01.01 of the Manual of Patent Office Practice of Canada states the following: "PCT applications will bear, as the laid-open date, the date of publication of the international application. This date will normally be within thirteen days after the expiry of eighteen months from the priority date or filing date of the international application." This is the present policy.

10. I investigated this error by contacting an official at CIPO, Mr. Murray Wilson. Mr. Wilson contacted Mr. Luc Louis-Seize, the Chief of Patent Data Quality Services at CIPO. As can be seen in the attached e-mail (Exhibit B), Mr. Louis-Seize acknowledged the error and directed the CIPO database manager to correct the publication date of this patent to reflect that it first laid

-4-

open (published) on February 18, 1993 the date of publication of the WIPO publication (see Exhibit B). Accordingly, the database at CIPO now indicates that Canada '996 was first laid open on the publication date of the PCT application namely February 18, 1993 (see Exhibit C and Exhibit D which are copies downloaded from the CIPO database and a copy of the amended front cover of Canada '996 respectively).

11. The indication on the front page of Canada '996 of a publication date of February 1, 1993 is incorrect. This date merely reflected the practice at the time of CIPO under its operating regulations. It does not indicate any actual publication by CIPO. It further does not indicate that the file was actually laid open for public inspection. Canada '996 was not published or laid open by CIPO in Canada prior to the publication of WO '847. Accordingly, Canada '996 was "first published" on February 18, 1993.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SEPTEMBER 19, 2005
Date

John C. Singlehurst
John C. Singlehurst